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OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
James Thomas Shively	:	
Application No. 09/851,720	:	DECISION ON RENEWED
Filed: May 9, 2001	:	PETITION UNDER 37 CFR 1.137(b)
Attorney Docket No. 30188.30008	:	

This is a decision on the renewed petition under 37 CFR §1.137(b), filed May 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the one month shortened statutory period set in the non-final Office Action mailed December 5, 2003. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is January 6, 2004.

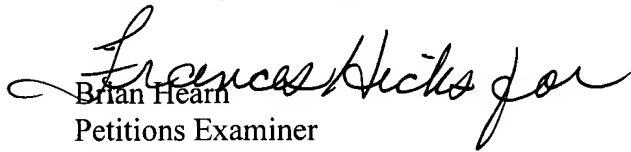
The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (election) and (2) the petition fee of \$1370.00 (for a large entity) have been received. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition. Accordingly, the reply to the non-final Office Action mailed December 5, 2003 is accepted as having been unintentionally delayed.

The declaration filed May 25, 2005 with the petition was not required for revival of the application. The petition fee of \$1370.00 was paid with petition filed November 19, 2004. The \$1500.00 fee charged for the petition filed May 26, 2005 has been refunded to Deposit Account No. 50-1210.

While the transmittal form indicates small entity, such status has not been awarded because the required statement has not been filed with the application, as described in MPEP 509.02 and 509.03.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 1762 for appropriate action on the concurrently filed reply.


Brian Hearn
Petitions Examiner
Office of Petitions